IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

WP(C).No. 29000 of 2006(B)

PETITIONER:

K.V.BASURA, AGED 50,
W/O.SURENDRAN, ILLICKAL HOUSE, EROOR P.O.,
TRIPUNITHURA NOW RESIDING AT ILLICKAL HOUSE,
ERUMELY, CHOTTANIKKARA P.O., PIN-682312.

BY ADV. SRI.T.KURIAKOSE PETER
SRI.ABRAHAM P.GEORGE

RESPONDENTS:

1. THE JOINT REGIONAL TRANSPORT OFFICER,
SUB REGIONAL TRANSPORT OFFICE, TRIPUNITHURA.

2. THE DEPUTY TAHSILDAR (REVENUE RECOVERY),
KANAYANNUR TALUK, ERNAKULAM.

3. THE DEPUTY TRANSPORT COMMISSIONER,
ERNAKULAM, CIVIL STATION, KAKKANAD.

4. SRI.MUHAMMED ALI P.M., S/O.MOIDEEN,
NAMARIYAL HOUSE, CHOORNIKKARA, ALUVA TALUK.

BY ADV. SRI.R.PADMARAJ
SRI.N.P.SETHU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.29000 of 2006

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Dated this the 24th day of August, 2007

J U D G M E N T

The petitioner filed an appeal before the Transport Commissioner, Ernakulam, against the order passed by the Joint Regional Transport Officer, Thripunithura, in respect of the demand for motor vehicle tax. During the pendency of the writ petition, the appellate authority passed Ext.P5 order dismissing the appeal. The petitioner, therefore, amended the writ petition challenging Ext.P5 order also. The petitioner submits that Ext.P5 order is totally unsustainable in so far as the same has been simply rejected on the ground of pendency of this writ petition. The petitioner, therefore, seeks quashing of Ext.P5 and, a direction to consider the appeal afresh and to stay further proceedings for recovery of the disputed amount pending disposal of the appeal.

2. To say the least, the third respondent has dealt with the matter quite shabbily. Operative portion of Ext.P5 order reads thus:

"The appeal No:24/2006 is filed U/s 23 of KMVT Act against demand of tax from 01-07-1997 to 30-09-1997 and from 01-01-1998 to 30-06-2000 by the Respondent in respect of G/V KLH 9142. Appeal was taken on file by this Authority and connected remarks was called for from the Respondent and obtained.

According to the appellant, he is not liable to pay the tax since he has sold the vehicle on 01-01-1993.

As per the remarks of the Respondent, the appellant has not surrendered the permit and not applied for clearance certificate.

In W.P(C).No.2857/2004 filed by the appellant, the Hon'ble High Court has directed the Joint Regional Transport Officer, Thripunithura that R.R. shall be kept in abeyance till a final decision is taken by him. Hence on 18-05-2006 Joint Regional Transport Officer, fixed a hearing date and issued a proceedings on 18-06-2006 as a final decision in which the Joint Regional Transport Officer stated that sale intimation was rejected and demanded tax. Thereafter, the appellant has filed another W.P(C).No.29000/2006 in which the High Court has directed the petitioner [sic] remit 50% of the arrear tax.

The appellant has produced a photostat copy of remittance particulars in Kanayannur Taluk for Rs.33075/- on 30-11-2006 vide Book No:13 51588 B No:5158789 (original receipt not produced)

Since the matter was considered by the Hon'ble High Court no necessary action is needed to be taken from this end.

Hence the appellant is directed to approach the Hon'ble High Court for further procedure as per the order in W.P(C). No:29000/2006.

Hence the appeal is rejected in the above findings."

A quasi-judicial authority is not expected to dispose of appeals this way. Simply because the petitioner has filed a writ petition challenging revenue recovery proceedings pending appeal, the appellate authority cannot reject the appeal on the

ground that the appellant has approached the High Court for necessary relief. In the above circumstances Ext.P5 is quashed and the third respondent is directed to reconsider the appeal on merits in accordance with law. Till the disposal of the appeal, the stay granted by this court shall continue to be in force, provided the petitioner pays 50% of the amount demanded as directed in the order of stay.

The writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.